

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES OFFICE OF PROJECT MANAGEMENT/PERMITTING ALASKA COASTAL MANAGEMENT PROGRAM

FRANK H. MURKOWSKI, GOVERNOR

107054 POW 1002-007

☐ SOUTHCENTRAL REGIONAL OFFICE
550 W 7th AVENUE SUITE 1660
ANCHORAGE, ALASKA 99501
PH: (907) 269-7470 FAX: (907) 269-3891

☒ CENTRAL OFFICE
302 GOLD STREET
JUNEAU, ALASKA 99801
PH: (907) 465-3562 FAX: (907) 465-3075

☐ PIPELINE COORDINATOR'S OFFICE
411 WEST 4th AVENUE, SUITE 2C
ANCHORAGE, ALASKA 99501
PH: (907) 2857-1351 FAX: (907) 272-3829

www.alaskacoast.state.ak.us

November 26, 2003

Ms. Guyla McGrady
Department of Natural Resources
Division of Mining, Land and Water
Southcentral Region Land Office
550 W. 7th Ave., Suite 900C
Anchorage, AK 99501-3577

POW 1002-007
Nov 26/03

Dear Ms. McGrady:

**Subject: HECETA ISLAND AREA AQUATIC FARMSITE DISPOSAL
State I.D. No. AK 0307-01J
Final Consistency Determination - Concurrence**

The Office of Project Management and Permitting (OPMP) has completed coordinating the State's review of your proposed aquatic farmsite project for consistency with the Alaska Coastal Management Program (ACMP).

OPMP has developed the enclosed final consistency determination, in which the State concurs with your certification that the project is consistent with the ACMP. This is the final decision for your project.

By copy of this letter, I am informing the U.S. Army Corps of Engineers and State review participants of OPMP's finding. If you have any questions, please contact me at 465-4664 or email joe_donohue@dnr.state.ak.us. The State appreciates your cooperation with the ACMP.

Sincerely,



Joe Donohue
Project Review Coordinator

Enclosure

Distribution List:

Mike Ostasz – ADEC, Wasilla *
Wayne Dolezal – ADFG, Anchorage *
Jackie Timothy – ADFG/Mariculture, Juneau *
Jim Anderson – ADNR/DMLW, Juneau *
Doug Sanvik – ADNR/DMLW, Juneau *
Kim Kruse – ADNR/OPMP, Anchorage *
Mark Minnillo – ADNR/OHMP, Craig *
Julie Raymond-Yakoubian – ADNR/SHPO, Anchorage *
Jon Bolling – Coastal District, Craig *
Donald Marvin – Coastal District, Klawock *
John Leeds – USACE, Juneau * **
Scott Snelson – USFS, Sitka *
Steve Brockmann – USFWS, Juneau *
Katharine Miller – NMFS, Juneau *

* = Emailed, ** = Faxed

**ALASKA COASTAL MANAGEMENT PROGRAM
FINAL CONSISTENCY DETERMINATION
CONCURRENCE**

DATE ISSUED: NOVEMBER 26, 2003

PROJECT TITLE: HECETA ISLAND AREA AQUATIC FARMSITE DISPOSAL

STATE ID. NO.: AK 0307-01J

AFFECTED COASTAL RESOURCE DISTRICT: NONE

DESCRIPTION OF PROJECT SUBJECT TO ACMP REVIEW:

The project subject to this consistency review is the use of tideland and submerged land for aquatic farming utilizing both suspended and intertidal culture methods. Proposed acreage for nominated sites and locations in the Heceta Island area are as follows:

Harmony Islands POW-N019 site, and Harmony Islands POW-N20 site – located at T 71 S., R 78 E., Section 14, CRM (USGS "Craig C-5", and NOAA #17404). From the DNR Preliminary Finding and Decision: General Location: "The nomination area will consist of a maximum of one farm site with a maximum acreage of not more than ten acres for a suspended culture farm and one farm site with a maximum acreage of not more than six acres for an intertidal, on-bottom farm located of the eastern side of the largest island in the Harmony Island group. The Harmony Islands are located approximately 17 air miles northwest of Klawock."

OK

Heceta Island POW N002 site, Heceta Island POW N003 Site, Heceta Island POW N004 site, Heceta Island N005 Site, Heceta Island N006 site, and Heceta Island N007 site (all for suspended culture) – located at T 70 S., R 78 E., Sections 10, 12, 13, 19, 24 CRM, and T 70 S., R 79 E., and Sections 7 and 18 (USGS "Craig D-5", and NOAA 17403). From the DNR Preliminary Finding and Decision: General Location: "The nomination area will consist of a maximum of six separate farm sites with a combined maximum acreage of not more than sixty acres located off the northeastern portion of Heceta Island between Heceta Island and the largest island south of Garden Island. The nomination area of Heceta Island is located approximately 14 air miles southeast of Edna Bay and approximately 20 air miles northwest of Klawock."

150
2 miles
20 acre max

Kaguk Cove POW N008 site, Kaguk Cove POW N009 site, - Kaguk Cove POW N010 site, Kaguk Cove POW N011 site, and Kaguk Cove POW N012 site (four suspended culture and one inter-tidal, on-bottom culture) – located at T 71 S., R 79 E., Sections 3, 4, and 10 (USGS "Craig C-4", and NOAA 17404). From the DNR Preliminary finding and Determination: General Location: "The nomination area will consist of a maximum of 4 farm sites with a maximum acreage of not more than forty acres for a suspended culture farm and 1 farm site with a maximum acreage of not more than five acres for an inter-tidal, on bottom farm located in Kaguk Cove. Kaguk Cove is located approximately 15 air miles northwest of Klawock and approximately 19 air miles northwest of Klawock."

OK

Nossuk Bay POW N013 site, Nossuk Bay POW N014 site, Nossuk Bay POW N015 site, Nossuk Bay POW N016 site, Nossuk Bay POW N017 site, and Nossuk Bay POW N018 site (six suspended culture and one inter-tidal culture) – located at T 71 S., R 79 E., Sections 7, 8, 17, and 18 (USGS “Craig C-4 and C-5”, and NOAA 17404). From the DNR Preliminary Finding and Determination: General Locations: “The nomination area will consist of a maximum of six farm sites with a maximum acreage of not more than sixty acres for a suspended culture farm and one farm site with a maximum acreage of not more than five acres for an inter-tidal, on-bottom farm located in Nossuk Bay. Nossuk Bay is located on the northwest side of Prince of Wales Island in the northeast part of Tonowek Bay, 1.5 miles south of Tonowek Narrows approximately 15 air miles northwest of Klawock.”

Potential farm sites covered by this review are defined by, and must meet, operational standards considered by the agencies to be “typical” (to the extent practicable) as discussed in the DNR preliminary findings and decisions.

The intent of the scope of the activities being reviewed is to also accommodate new methods, strategies, or technologies proposed (at a later time), which have the same or similar impacts as those already known. Should an individual applicant’s subsequent proposed development plan fall outside of the scope of the activities subject to this review, it will be subject to an independent review under the regular aquatic farming program during its biannual opening.

The scope of the activities covered by this ACMP review include, as mentioned above, the sites themselves (identified in the DNR preliminary finding and decision). The following typical operations are covered by the DNR preliminary finding and decision and are included here for descriptive purposes as to the use of the site (see page 2 of the DNR preliminary finding and decision for further details, and see the section in this letter “Activities Not in the Scope of This Review”):

- Generally start utilizing up to one acre of tide and submerged land.
- Suspended culture – generally uses lantern nets, bags, trays or cages suspended from surface longlines or log rafts which are anchored at each end; contain all gear within the acreage requested; farm area delineated with clearly marked buoys.
- Intertidal clam – generally tideland beds are prepared by raking debris and removing large rock and/or cleaning algae beds; predator netting secured over the seeded area; at least one marked buoy.
- Subtidal on-bottom culture – generally geoduck clams are placed into 16-inch P’VC tubes pushed into the substrate; mark lease area by longlines stretched along the ocean bottom between corner bottom anchors; one floating surface buoy to denote clam site area.

ACTIVITIES NOT IN THE SCOPE OF REVIEW:

A project of this scope and design generally requires a general permit (GP) #91-7N (Aquatic Farm Structures) and a Nationwide Permit 4 (Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities)] from the U.S. Corps of Engineers. These were previously found consistent with the ACMP. Per legislation effective on May 21, 2003, the scope of the ACMP review excludes general permits. Thus, this GP and NWP are not in the scope of this review.

The activity of acquiring or transferring shellfish or aquatic plants is not subject to this ACMP review. The activity requires authorization from the Department of Fish and game (Shellfish and Aquatic Plant Transport and/or an Aquatic Stock Acquisition permit).

SCOPE OF PROJECT REVIEW:

The scope of this ACMP consistency review included all applications and documentation submitted for federal and State authorizations.

AUTHORIZATIONS:

The project must be found consistent with the ACMP before the following state and Federal authorization[s] may be issued:

U.S. Army Corps of Engineers
GP 91-7N and NWP 4

Alaska Department of Fish and Game (DFG)
Aquatic Farm and Hatchery Operation Permit

Alaska Department of Natural Resources (DNR)
Aquatic Farmsite Lease No. ADL 106997

Department of Environmental Conservation authorizations will be necessary at later stages of the authorized activities. These permits are not subject to ACMP review. (See page 5 of the DNR Preliminary Best Interest Finding for this particular project.)

The DNR Aquatic Farmsite Leases will be issued with an effective date of January 2, 2004. State agencies shall issue other permits within five days after ACMP/OPMP issues the final consistency determination that concurs with the proposed project, unless the resource agencies considers additional time to be necessary to fulfill its statutory or regulatory authority.

CONSISTENCY STATEMENT:

Based on an evaluation of your project by the Alaska Departments of Environmental Conservation, Fish and Game, and Natural Resources (Division of Mining, Land and Water, and Office of Habitat Management and Permitting), the State of Alaska concurs with the consistency certification submitted by the applicant – the Department of Natural Resources, and signed by Christina B. Nahorney.

Please note that, in addition to their consistency review, State agencies with permitting responsibilities will evaluate this proposed project according to their specific permitting authorities. Agencies will issue permits and authorizations only if they find the proposed project complies with their statutes and regulations in addition to being consistent with the coastal program. An agency permit or authorization may be denied even though the State concurs with the ACMP certification. Authorities outside the ACMP may result in additional permit/lease conditions. If a requirement set out in the project description (per 6AAC 50.265) is more or less restrictive than a similar requirement in a resource agency authorization, the applicant shall comply with the more restrictive requirement. Applicants may not use any State land or water without DNR authorization.

This final consistency determination represents a consensus reached between you as the project applicant and the reviewing agencies listed above; regarding the conditions necessary to ensure the proposed project is consistent with the ACMP. We are informing the federal agency responsible for approving a federal authorization for your project that your original proposal has been modified subject to the conditions in this consistency determination.

This final consistency determination is a final administrative decision for purposes of Alaska Appellate Rules 601-612. Any appeal from this decision to the superior court must be made within 30 days of the date of this determination.

ADVISORIES:

Department of Fish and Game - ADF&G has advised the OPMP that the following stipulation will be incorporated into the Operating Permit. This stipulation will be carried solely under its own authority and is not needed for ACMP consistency.

- The applicant shall discuss predator exclusion plans with the Mariculture Coordinator before the Operation Permit will be issued. The farmer shall monitor any exclusion devices for entanglement of fish and wildlife and shall report all incidences to the Mariculture Coordinator. If, upon inspection, ADF&G finds the exclusion devices have been unattended and are in disrepair, the farmer will be issued a warning and the Mariculture Coordinator will discuss with the farmer a strategy for successful maintenance of the exclusion devices. If, upon a second inspection, ADF&G finds the exclusion devices unattended or in disrepair, the farmer will be cited and fined (AS 16.40.170 class B misdemeanor) and will no longer be allowed the use of exclusion devices at the farmsite.

Department of Natural Resources:

Division of Mining, Land and Water - DNR/MLW has advised the OPMP that after a successful bidder submits the required development plan, including a detailed site map, the Office of History and Archaeology will be consulted to ensure the farm site will not conflict with any known historic or archeological materials. In addition, all aquatic farm leases will carry a stipulation stating "if cultural or paleontological resources are discovered as a result of this activity, work that would disturb such resources must be stopped and the Alaska Office of History and Archaeology shall be contacted immediately at (907) 269-8721.

Office of History and Archaeology, State Historic Preservation Officer (SHPO) – August 29, 2003 OPMP received information that SHPO was recommending that POW-N019 and POW-N020 [Harmony Islands] had "High potential, should be surveyed."; that POW-N008, N009, N010, N011, and N012 [Kaguk Cove] had "High potential, should be surveyed"; and that POW-N013, N014, N015, N016, N017, and N018 [Nossuk Bay] had recommendation of "Do not lease", and a comment "Four National Register eligible sites in lease area plus four other sites."

Klawock Coastal District – On August 7, 2003 OPMP received the following message: "The City of Klawock finds the projects listed below [including AK 0307-01J] to be outside the Klawock Coastal Zone District Plan and not inconsistent with said Plan."

Craig Coastal District – On September 2, 2003 OPMP received a letter from the Craig Coastal District which stated: "The projects [including AK 0307-01J] lie outside boundaries of the Craig Coastal District. However, commercial and personal use boats from the Craig area frequent the sites proposed in this disposal, and as such the residents of the district have a significant interest in the proposed projects.

Of primary concern to the local fleet are access to commercial stocks of seafood, and maintenance of anchorages. . . The sites proposed in this disposal all overlap into established commercial fishing areas, including dive fisheries. Sea cucumber, sea urchins and other species are caught by commercial fishermen in these areas. The economy of Craig district is dependent in no small part on the ability of commercial boats to access and harvest product from these and other areas. While the establishment of shellfish farms may also benefit the district's economy, it should not come at the expense of established common stock fisheries. Instead, the Craig district urges DNR to work with the Southeast Alaska Regional Dive Fisheries Association (SARFSA) to identify and avoid siting shellfish farms in waterways that would preempt commercial fishing activities. . . Area vessels rely on anchorages in the project area. Inclement weather requires that natural anchorages be maintained for the safety and benefit of commercial and personal use vessels. The Craig district asks that DNR contact area harbor advisory committees, local harbormasters, and other areas users to avoid siting shellfish farms in established anchorages."

Aquatic Farm Public Meeting – Naukati – On August 13, 2003 the State of Alaska held a Public Meeting in Naukati's Floating School Gymnasium on Prince of Wales Island. During the course of this Meeting, (and among others) there were specific comments made about the Heceta Island nomination near Karheen Passage; a floathouse resident emphasized the fact that Karheen Passage is a thoroughfare for boats around the Camp Island / Port Alice area in the summer and that "there were three possible historical sites" that could be effected by aquatic farm development.

Please be advised that although the OPMP concurs with your certification that the project is consistent with the ACMP, the applicant is still required to meet all applicable State and federal laws and regulations. Your consistency finding may include reference to specific laws and regulations, but this in no way precludes the applicant's responsibility to comply with other applicable laws and regulations.

This consistency determination is only for the project as described. If, after issuance of a final consistency determination or response, the applicant proposes any changes to the approved project, including its intended use, prior to or during its siting, construction, or operation, the applicant must contact this office immediately to determine if further review and approval of the modifications to the project is necessary. Changes may require amendments to the State authorizations listed in this determination or response, or may require additional authorizations.

If the proposed activities reveal cultural or paleontological resources, the applicant is to stop any work that would disturb such resources and immediately contact the State Historic Preservation Office (907-269-8720) and the U.S. Army Corps of Engineers (907-753-2712) so that consultation per section 106 of the National Historic Preservation Act may proceed.

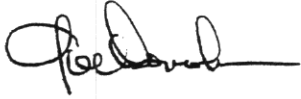
FINAL CONSISTENCY DETERMINATION PREPARED BY:

Joe Donohue – Project Review Coordinator

302 Gold Street, Ste. 202

Juneau, Alaska 99801

(907) 465-4664

A handwritten signature in black ink, appearing to read "Joe Donohue", written over a horizontal line.

Joe Donohue

ACMP CONSISTENCY EVALUATION

“HECETA ISLAND AREA AQUATIC FARMSITE DISPOSAL” – AK 0307-01J

Pursuant to the following evaluation, the project as proposed is consistent with applicable ACMP statewide and affected coastal resource district enforceable policies.

STATEWIDE ENFORCEABLE POLICIES
6 AAC 80.040. Coastal Development
Evaluation: Based on the project description, the evaluation of effects on uses and activities submitted by the applicant, and the response from review participants on the project, this project as proposed meets the criteria and intent of this standard.
6 AAC 80.050. Geophysical Hazard Areas
Evaluation: Based on the project description, the evaluation of effects on uses and activities submitted by the applicant, and the response from review participants on the project, this project as proposed meets the criteria and intent of this standard.
6 AAC 80.060. Recreation
Evaluation: This area has not been designated as a recreational use area by the affected coastal district, and the proposed project would not impact public access to coastal waters, therefore this standard does not apply to this proposed project.
6 AAC 80.070. Energy Facilities
Evaluation: This standard does not apply to this proposed project.
6 AAC 80.080. Transportation & Utilities
Evaluation: Based on the project description, the evaluation of effects on uses and activities submitted by the applicant, and the response from review participants on the project, this project as proposed meets the criteria and intent of this standard.
6 AAC 80.090. Fish & Seafood Processing
Evaluation: This standard does not apply to this proposed project.
6 AAC 80.100. Timber Harvest & Processing
Evaluation: This standard does not apply to this proposed project.
6 AAC 80.110. Mining & Mineral Processing
Evaluation: This standard does not apply to this proposed project.
6 AAC 80.120. Subsistence
Evaluation: Based on the project description, the evaluation of effects on uses and activities submitted by the applicant, and the response from review participants on the project, this project as proposed meets the criteria and intent of this standard.
6 AAC 80.130. Habitats
Evaluation: Based on the project description, the evaluation of effects on uses and activities submitted by the applicant, and the response from review participants on the project, this project as proposed meets the criteria and intent of (a)(3), (b), and (c)(3) of this standard.
6 AAC 80.140. Air, Land & Water Quality
Evaluation: (Under new legislation [CS for HB 191] that went into effect May 21, 2003, this standard is now being implemented separately by the Department of Environmental Conservation, but the legislation indicates that the issuance of a DEC authorization constitutes consistency with the ACMP for the authorized activity and this standard.)
6 AAC 80.150. Historic, Prehistoric, and Archaeological Resources
Evaluation: DNR/SHPO has advised OPMP that there are historical, cultural or prehistoric resources located within the vicinity of lease sites subject to this ACMP consistency review. SHPO was

recommending that POW-N019 and POW-N020 [Harmony Islands] had "High potential, should be surveyed."; that POW-N008, N009, N010, N011, and N012 [Kaguk Cove] had "High potential, should be surveyed"; and that POW-N013, N014, N015, N016, N017, and N018 [Nossuk Bay] had recommendation of "Do not lease", and a comment "Four National Register eligible sites in lease area plus four other sites."

The ACMP Historic, Prehistoric, and Archaeological Resources Standard (6AAC 80.150) allows for the identification of areas of the coast which are important to the study, understanding, or illustration of national, state or local history or prehistory, however relies on other governmental programs to protect the identified resources. The OPMP is advising the U.S. Army Corp of Engineers (COE) of DNR/SHPO's recommendations. DNR/MLW has advised the OPMP that after a successful bidder submits the required development plan, including a detailed site map, the Office of History and Archaeology will be consulted to ensure the farm site will not conflict with any known historic or archeological materials. In addition, all aquatic farm leases will carry a stipulation stating "if cultural or paleontological resources are discovered as a result of this activity, work that would disturb such resources must be stopped and the Alaska Office of History and Archaeology shall be contacted immediately at (907) 269-8721.

The OPMP recommends that the above DNR/MLW Aquatic Farm Lease stipulation require that the U.S. Army Corps of Engineers also be contacted so that consultation per section 106 of the National Historic Preservation Act may proceed.

Based on the project description, the evaluation of effects on uses and activities submitted by the applicant, and the response from review participants on the project, this project as proposed meets the criteria and intent of this standard.

AFFECTED COASTAL RESOURCE DISTRICT ENFORCEABLE POLICIES

This project does not lie within the Coastal District boundaries of either Klawock or Craig. JKD